IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

CRP.No. 1070 of 2006()

OPELE.109/1998 of ADDL. DISTRICT COURT, PATHANAMTHITTA

.....

REVN. PETITIONER/1ST RESPONDENT :

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA,
KAYAMKULAM, REP. BY ITS MANAGER.

BY ADV. K.P.DANDAPANI (SR)

RESPONDENT/ PETITIONER :

KUNJAMMA JOSEPH,
KATTAPPURATHU, VAYALA P.O.,
ERATHU VILLAGE, ADOOR TALUK,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.PHILIP M.VARUGHESE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P. NO. 1070 OF 2006

Dated this the 10th day of December, 2007

ORDER

Heard learned counsel appearing for both sides.

2. This revision petition is preferred against the award of the Additional District Judge, Pathanamthitta in O.P.(Elect.) 109/1998 whereby the Additional District Judge has awarded an enhanced compensation of Rs.3,07,722/- with 6% interest per annum. Learned counsel submits that the court has relied on the decision of this court reported in **Kumba Amma v. K.S.E.B** [2000 (1) KLT 542]whereby the annuity factor is ordered to be taken as 5%. Learned counsel for the revision petitioner has drawn my attention to the decision rendered in **K.S.E.B. v. Livisha [2007 (3) KLT 1]** wherein this court held that each case has to be decided on the facts and circumstances involved therein. The Apex court held as follows:

> "*The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."*

3. It is also submitted by the learned counsel for the revision petitioner that there is a calculation mistake committed by the court below. That is in para 11 a sum total of the entire amount will come to only Rs.41006.42 instead of 60078.67 and so that mistake also needs to be rectified. In the light of these factors the matter requires fresh consideration by the court below. Therefore the award under challenge is set aside and the matter is remitted back to the court below for fresh consideration, after affording equal opportunities to both sides to adduce evidence both oral and documentary in support of their respective contentions and also to take note of the calculation mistake pointed out in para 11 of the award and dispose of the same in accordance with law.

Parties are directed to appear before the court below on 21.1.08.

M.N.KRISHNAN, JUDGE

vps